

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

FREE SPEECH SYSTEMS, LLC,

DEBTOR.

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Case No. 22--60043

**(Subchapter V Debtor)
Chapter 11**

**DEBTOR'S EMERGENCY MOTION E FOR
EXTENSION OF TIME TO FILE A PLAN OF REORGANIZATION**

THIS APPLICATION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

AUDIO COMMUNICATION WILL BE BY USE OF THE COURT'S DIAL IN FACILITY. YOU MAY ACCESS THE FACILITY AT 832-917-1510. YOU WILL BE RESPONSIBLE FOR YOUR OWN LONG-DISTANCE CHARGES. ONCE CONNECTED, YOU WILL BE ASKED TO ENTER THE CONFERENCE ROOM NUMBER. JUDGE LOPEZ' CONFERENCE ROOM NUMBER IS 590153. YOU MAY VIEW VIDEO VIA GOTOMEETING. TO USE GOTOMEETING, THE COURT RECOMMENDS THAT YOU DOWNLOAD THE FREE GOTOMEETING APPLICATION. TO CONNECT, YOU SHOULD ENTER THE MEETING CODE "JUDGELOPEZ" IN THE GOTOMEETING APP OR CLICK THE LINK ON JUDGE LOPEZ'S HOME PAGE IN THE SOUTHERN DISTRICT OF TEXAS WEBSITE. ONCE CONNECTED, CLICK THE SETTINGS ICON IN THE UPPER RIGHT-HAND CORNER AND ENTER YOUR NAME UNDER PERSONAL INFORMATION SETTING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

Free Speech Systems, LLC (the “Debtor” or “FSS”), the debtor and debtor-in-possession in the above-captioned chapter 11 case (the “Chapter 11 Case”), respectfully files this *Motion for Extension of Time to File a Plan of Reorganization* (“*Motion*”) requesting entry of an order substantially in the form attached hereto (the “Proposed Order”) In support of the Application, the Debtor respectfully represents as follows:

JURISDICTION

1. The United States Bankruptcy Court for the Western District of Texas has jurisdiction over this matter under 28 U.S.C. § 1334. The matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

2. The statutory bases for relief requested herein are pursuant to 11 U.S.C. §§ 105(a) and 1189 of the Bankruptcy Code, Rule 3016 of the Federal Rules of Bankruptcy Procedure, and Rule 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (“*L. Rule*”).

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

4. On July 29, 2022 (the “Petition Date”), the Debtor commenced a case by filing a petition for relief under chapter 11, subchapter v, of the Bankruptcy Code with the Court.

5. The Debtor continue to operate its businesses and manage its properties as a Debtor and a Debtor-in-Possession pursuant to Bankruptcy Code § 1182(2).

6. As of the filing of this Application, no creditors’ committee has been appointed in the Chapter 11 Case by the Office of the United States Trustee for Region 7 (the “U.S. Trustee”).

7. In June of 2022, FSS retained W. Marc Schwartz as its CRO with broad powers to review the company’s past financial performance, analyze the condition of FSS’s books and

records and evaluate whether FSS is a business that can be reorganized. W. Marc Schwartz retained his Firm Schwartz & Associates to perform various accounting and forensic work associated with his mandate.

8. This Court denied the application to retain W. Marc Schwartz as CRO and Schwartz & Associates. The lack of a CRO left the debtor without day to day operational and financial management for the period from September 13, 2022, until Patrick Magill was identified as a replacement CRO and his employment approved by this Court on October 12, 2022.

9. Mr. Magill's immediate focus has been to address acute operational issues resulting from the management vacuum created by the absence of a CRO. In addition, he has focused on addressing product acquisition, implementing operational cost cutting and as yet has not begun the effort to construct budgets and pro forma projections which are essential to confirmation of a plan of reorganization under subchapter V of chapter 11.

10. In addition, on October 12, 2022, this Court entered a *Stipulation and Agreed Order* appointing Judge Isgur to mediate disputes which ultimately will involve terms of a plan. The date for the mediation has not been set.

RELIEF REQUESTED

11. By this Motion, the Debtor seeks entry of an order extending the deadline in which a Subchapter V Plan may be filed for a period of not less than 70 days.

12. The Debtor requests an emergency hearing on this Motion as the deadline for the Debtor to file a plan is imminent.

BASES FOR RELIEF REQUESTED

13. Pursuant to 11 U.S.C. § 1189(b), the Debtor is required to file its Plan of Reorganization within 90 days of the Petition Date, except that the Court may extend the period if

the need for the extension is attributable to circumstances for which the Debtor should not justly be held accountable.

14. The deadline for the Debtor to file a plan of reorganization is Thursday, October 27, 2022

15. The replacement of the CRO and the agreement to proceed to mediation as a means of potentially arriving at a resolution of a highly contentious case are circumstances for which the Debtor should not justly be held accountable.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court enter an order substantially in the form of the Proposed Order and grant any other appropriate relief.

Dated: October __, 2022

FREE SPEECH SYSTEMS, LLC

/s/ Ray Battaglia

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Counsel to Free Speech Systems, LLC,

Debtor and Debtor-in-Possession

CERTIFICATE OF ACCURACY

I hereby certify that the foregoing statements are true and accurate to the best of my knowledge and belief. This statement is being made pursuant to Bankruptcy Local Rule 9013-1(i).

/s/ Raymond W. Battaglia

Raymond W. Battaglia

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by (a) the Court's CM/ECF system on all parties registered to receive such service on the date of filing, (b) by U.S.P.S. first class mail on all parties indicated in the attached service list within 24 hours of the filing, and (c) the following parties by email on the date of filing:

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/s/ Raymond W. Battaglia

USPS Service List

Twenty Largest Unsecured Creditors

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Coral Springs, FL 33065

Edgecast, Inc
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Palatine, IL 60055

Atomial LLC
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Sandpoint, ID 83864

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